IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2099 OF 2006
WITH
CIVIL APPLCIATION NO. 934 OF 2006

Sou. Shakuntala Sitaram Gupta ..Petitioner

Vs.

Suryakant Bhanudas Mangire and ors. ..Respondents

Mr. S.S. Kanetkar for petitioner.
Mr. R.G. Ketkar for respondent no.1.
Mr. R.M. Patne, AGP for respondent nos.2 to 4.

CORAM: B.H. MARLAPALLE, J.

Date : April 26, 2007.

P.C.:

1. Heard Mr. Kanetkar the learned counsel for the petitioner. Mr. Ketkar the learned counsel appears for respondent no.1 and the learned AGP appears for respondent nos.2 to 4.

2. This petition filed under Article 227 of the Constitution arises from the order of eviction passed by the Competent Authority under Section 24 of the Maharashtra Rent Control Act, 1999 in Eviction

Application No. 27 of 2000 vide his Judgment and Order dated 25/1/2002 and duly confirmed by the Additional Commissioner, Pune Division, Pune in Revision Application No. 339 of 2003 filed under Section 44 of the said Act. The said Revision Application came to be dismissed on 16/4/2005. On receiving the summons, the present petitioner appeared before the Competent Authority and filed the Written Statement at Exh.12 opposing the application. However, she did not file any application for leave to defend. She had contended that there was no leave and licence agreement between the parties and that the applicant being a money lender he has misused the blank stamp paper for the purpose of preparing leave and licence agreement. She further contended that the leave and licence agreement dated 2/12/1998 was not registered as per the provisions of the Bombay Rent Act and the contents therein were false and malicious. She also challenged the jurisdiction of the Competent Court to entertain the application on the ground that there was no agreement for leave and licence between the parties. The petitioner further stated that she has challenged the sale deed between the parties in

Regular Civil Suit No. 573 of 1999 pending before the Joint Civil Judge, J.D., Barshi. The ad-interim order passed in the said suit was placed before the Competent Authority. The Competent Authority on hearing both the parties and on appreciation of the evidence before him, held that there was a licensor and licensee relationship between the parties, the license period had expired and consequently the objection to the jurisdiction taken by the petitioner was rejected. The petitioner has been directed to hand over the vacant and peaceful possession of the property described in para 1 of the application to the landlord i.e. the property bearing CTS No. 3501 situated at Barshi, District Solapur. The Revisional Authority has considered the rival contentions and also the reasoning set out by the Competent Authority and held that there was no case made out to cause interference in the eviction order.

3. At the outset, it is required to be noted that Regular Civil Suit No. 573 of 1999 has been decided by the learned 4th Joint Civil Judge, J.D., at Barshi on 12/12/2005 and the present petitioner was the

plaintiff therein. The said suit was partly decreed in terms of the of the following order:-

> "The defendant is restrained from dispossessing the plaintiff from the suit property without following the due process of law."

. It appears that the said decree has been passed after the eviction order passed by the Competent Authority has been confirmed by the Revisional Authority on 16/4/2005 and it no way supports the contentions of the petitioner that the sale deed challenged in the said suit was illegal.

4. Before the Competent Authority the landlord had examined in all three witnesses including himself and had also placed on record documentary evidence, namely, leave and licence agreement Exh.23, the extract of property register of Barshi (certified copy) Exh.20. The landlord stated that the suit property was purchased by him from the opponent on 10/11/1998 under the registered sale deed and it was

in his possession. After execution of the sale deed, the opponent vacated the suit premises and moved to Khude Sol, Barshi for residence and as the premises were not found inhabitable condition, he had requested the applicant to let him re-occupy the suit premises for some time and, therefore, an agreement was entered between the parties on 2/12/1998. The said agreement was of leave and licence and the licence period was 11 months commencing from 2/12/1998 and it had expired on 1/11/1999. The property was given for residential purpose and on expiry of the licence period the landlord demanded the possession from the present petitioner but she was avoiding to do so and, therefore, he filed the application before the Competent Authority. The leave and licence agreement dated 2/12/1998 was proved through the witness, namely, Ganesh Kulkarni (Exh.22) and he had stated on oath that he had scribed leave and licence agreement between the parties on a stamp paper of Rs.20/- and it was in his hand writing and he had signed as the scriber. He further stated that the applicant as well as the tenant and one more witness had signed the agreement in his presence on 2/12/1998 and it was

taken on record at Exh.23. Another witness by name Arvind Garal was examined at Exh.24 and he also supported the execution of the agreement dated 2/12/1998. This witness categorically stated that an amount of Rs.1500/- was given in his presence by the tenant to the landlord towards the licence fees. The testimony of these three witnesses examined by the applicant landlord remained unchallenged.

5. Thus, the landlord proved that there was a leave and licence agreement dated 2/12/1998, the licence period had expired on 1/11/1999 and the landlord had issued a notice seeking the possession of the licensed premises. The eviction order passed by the Competent Authority and confirmed by the Revisional Authority cannot be termed as perverse or grossly erroneous calling for interference under Article 227 of the Constitution.

6. Hence, the petition is rejected summarily.

7. Civil Application No. 934 of 2006 does not survive and the same shall stand disposed as such.

(B.H. Marlapalle,J.)